

REMARKS

Applicant has amended claims 1, 4-6, 15, and 21-28. Claims 8-10 have been canceled. The Specification has been amended to include the ATCC deposit information. A receipt from ATCC is attached. These changes have been made to place the claims in better form for examination and to further obviate the 35 U.S.C. §§102(b), 103(a), and 112 rejections as set forth in the Office Action dated May 9, 2005. It is believed that none of these amendments constitute new matter. It is submitted that these amendments obviate the rejections. Withdrawal of these rejections is respectfully requested.

The Examiner has objected to claim 4 for the omission of "A" before "protoplasts produced from..." and the use of "protoplasts" because only a single invention can be claimed. Applicant has amended claim 4. Withdrawal of this objection is respectfully requested.

The Examiner has objected to claim 5 for the phrase "...the tissue culture are from..." because it appears to unduly limit the invention to a first generation tissue culture. Applicant has amended claim 5. Withdrawal of this objection is respectfully requested.

The Examiner has objected to claim 27 because "by a transgene" lacks antecedent basis. Applicant has amended claim 27. Withdrawal of this objection is respectfully requested.

The Examiner has objected to claims 1, 6, 23, and 24 for the inclusion of a blank line. Applicant has amended claims 1, 6, 23, and 24 to include the ATCC Accession number. Withdrawal of this objection is respectfully requested.

The Examiner has objected to claim 15 for the inclusion of a colon ":" after the word "of". Applicant has amended claim 15. Withdrawal of this objection is respectfully requested.

The Examiner has rejected claims 8-10 and 24-28 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicant has

canceled claims 8-10 and amended claims 24-28. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 1-28 under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Applicant has amended claims 1, 6, 23, and 24 to include the ATCC Accession number. Additionally, the undersigned avers that:

- a) access to the invention will be afforded to the Commissioner during the pendency of the application;
- b) all restrictions upon availability to the public will be irrevocably removed upon the granting of a patent;
- c) the deposit will be maintained in a public depository for a period of 30 years or 5 years after the last request or for the enforceable life of the patent, whichever is longer;
- d) a test of the viability of the biological material at the time of deposit was performed; and
- e) the deposit will be replaced if it should ever become inviable or when requested by ATCC.

Accordingly, withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 8-10 and 24-28 under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Applicant has canceled claims 8-10 and amended claims 24-28. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 8-10 under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Wallace et. al. (Crop Sci. 42: 2216-2217, 2002). Applicant has canceled claims 8-10. Withdrawal of this rejection is respectfully requested.

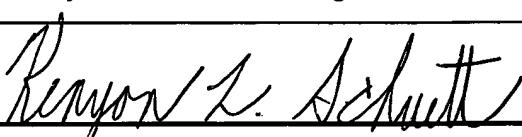
In view of the above amendments and remarks, it is submitted that the claims satisfy the provisions of 35 U.S.C. §§102(b), 103(a), and 112. Reconsideration of this application and early notice of allowance is respectfully requested.

Application No. 10/824,207

Amendment dated September 7, 2005

Reply to Office Action dated May 9, 2005

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SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED					
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To: Kenyon L. Schuett

Fax Number: 303-799-6898

From: ATCC Patent Depository **Number of pages:** 1 (Including this page)

REFERENCE: Patent Deposit

Description: Cotton *Gossypium hirsutum* (L.): 02T57R assigned ATCC No. PTA-6905, 1760-321
 Cotton *Gossypium hirsutum* (L.): 01Z34 assigned ATCC No. PTA-6906 and 1760-292
 Cotton *Gossypium hirsutum* (L.): 01W34 assigned ATCC No. PTA-6907. 1760-323

Date of Deposit: August 4, 2005. The ATCC Certificate of Deposit will be forwarded to you within 30 days. The following fees will be invoiced referencing Delta and Pine Land Company Check No. 00308845, 00308847 and 00308846 respectively:

Total fees for PTA-6905 to PTA-6907 (storage/informing/viability testing)	\$7,500.00
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 Tanya Nunnally, Patent Specialist
 ATCC Patent Depository

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